

Amendment No. _____

Bill Sanders

Signature of Sponsor

FILED	
Date	<u>3-20-17</u>
Time	<u>10:29 AM</u>
Clerk	<u>(SH)</u>
Comm. Amdt.	_____

AMEND Senate Bill No. 557*

House Bill No. 1291

by deleting the language in Section 2 of the bill and substituting instead the following:

This act shall take effect January 1, 2018, the public welfare requiring it.



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State Government Committee 1

Amendment No. 1 to HB0975

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 1390

House Bill No. 975*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-30-303(a), is amended by adding the following language as subdivision (4):

(4) An assessment may be used in lieu of an interview by the commissioner or an appointing authority to satisfy any requirements of this chapter. If an assessment is used in lieu of an interview, notice of such use may be included in the job announcement.

SECTION 2. Tennessee Code Annotated, Section 8-30-311, is amended by designating the existing language as subsection (a) and adding the following new subsection (b):

(b) The commissioner may provide input on all contracts with the private sector to perform the functions or jobs listed in subsection (a). The commissioner may be involved in the communications with any employee whose job may be terminated as the result of a contract with a private party.

SECTION 3. Tennessee Code Annotated, Section 8-30-314, is amended by adding the following new subsections:

(k) An appointing authority that terminates or furloughs an employee or reduces an employee's hours of employment for any reason shall provide written notice to the commissioner. Upon receiving notice, the commissioner shall provide input throughout the reduction-in-force process.

(l) If a reduction-in-force authorized under this section occurs, the commissioner shall notify, at the same time the preferred service employee whose position is abolished because of a reduction-in-force is notified, but not less than thirty (30) days after the

State Government Committee 1

Amendment No. 1 to HB0975

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 1390

House Bill No. 975*

reduction, the chair of the state and local government committee in the senate and the chair of the state government committee in the house of representatives of the reason for the reduction-in-force and the number of positions affected by the reduction-in-force.

SECTION 4. Tennessee Code Annotated, Section 8-30-316, is amended by adding the following language as a new subsection (g):

(g) A notice of termination shall include the reason for the termination in clear and concise language and shall state the facts that led to the termination.

SECTION 5. Tennessee Code Annotated, Section 8-30-319, is amended by adding the following language as a new subsection (c):

(c) Any written warning or written follow-up to an oral warning that has been issued to an employee is void and of no effect after a period of two (2) years if the employee has not been the subject of further disciplinary action with respect to the same area of performance, conduct, or discipline within the two-year period.

SECTION 6. This act shall take effect July 1, 2017, the public welfare requiring it.

Amendment No. 1 to HB1276

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 1224

House Bill No. 1276*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 12-3-401(b), is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business," and by deleting the language "§ 12-3-514 [See Compiler's Notes]" and substituting instead the language "§ 12-3-1102".

SECTION 2. Tennessee Code Annotated, Section 12-3-503(c), is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business,".

SECTION 3. Tennessee Code Annotated, Section 12-3-514(g), is amended by adding the language "business owned by persons with disabilities," immediately after the language "Tennessee service-disabled veteran-owned business," wherever it appears.

SECTION 4. Tennessee Code Annotated, Section 12-3-1101, is amended by adding the language ", Service-Disabled Veteran-Owned, Business Owned by Persons with Disabilities," immediately after the language "Woman-Owned".

SECTION 5. Tennessee Code Annotated, Section 12-3-1102, is amended by deleting subdivision (9) and the word "Tennessee" wherever it appears, and by adding the following language as new subdivisions:

() "Business owned by persons with disabilities" means a business owned by a person with a disability that is a continuing, independent, for-profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more persons with a disability; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and

Amendment No. 1 to HB1276

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 1224

House Bill No. 1276*

controlled by one (1) or more persons with a disability and whose management and daily business operations are under the control of one (1) or more persons with a disability;

() "Person with a disability" means an individual who meets at least one (1) of the following:

(A) Has been diagnosed as having a physical or mental disability resulting in marked and severe functional limitations that is expected to last no less than twelve (12) months;

(B) Is eligible to receive social security disability insurance (SSDI); or

(C) Is eligible to receive supplemental security income (SSI) and has a disability as defined in subdivision () (A);

SECTION 6. Tennessee Code Annotated, Section 12-3-1103, is amended by deleting subsection (a) and substituting instead the following:

(a) The procurement commission is authorized to adopt rules and regulations establishing criteria and standards for minority-owned businesses, woman-owned businesses, service-disabled veteran-owned businesses, businesses owned by persons with disabilities, and small businesses that are eligible to be included under this part. The rules and regulations must include methods by which eligibility can be verified and the business deemed certified.

SECTION 7. Tennessee Code Annotated, Section 12-3-1103, is amended by deleting the word "Tennessee" wherever it appears.

SECTION 8. Tennessee Code Annotated, Section 12-3-1104, is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business," wherever it appears.

SECTION 9. Tennessee Code Annotated, Section 12-3-1104(a), is amended by deleting subdivision (2) and substituting instead the following:

(2) The amount of fair proportion shall be recommended annually by the governor's office of diversity business enterprises to the procurement commission for its review and approval. In annually determining the amount of fair proportion, the procurement commission shall establish, based on the recommendation of the governor's office of diversity business enterprises, a separate amount of fair proportion for each of the five (5) subcategories of businesses identified in § 12-3-1102: minority-owned businesses, woman-owned businesses, service-disabled veteran-owned businesses, businesses owned by persons with disabilities, and small businesses. Nothing in this part establishes any mandatory goal or quota with respect to minority-owned businesses, woman-owned businesses, service-disabled veteran-owned businesses, businesses owned by persons with disabilities, or small businesses.

SECTION 10. Tennessee Code Annotated, Section 12-3-1105, is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business," wherever it appears.

SECTION 11. Tennessee Code Annotated, Section 12-3-1106, is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business," wherever it appears.

SECTION 12. Tennessee Code Annotated, Section 12-3-1107, is amended by adding the language "business owned by persons with disabilities," immediately after the language "service-disabled veteran-owned business," wherever it appears.

SECTION 13. Tennessee Code Annotated, Section 12-3-1107(b), is amended by deleting the language "four (4)" and substituting instead the language "five (5)" wherever it appears.

SECTION 14. Tennessee Code Annotated, Section 12-3-1112, is amended by deleting subsection (b) and substituting instead the following:

(b) The office of diversity business enterprises shall assist small businesses and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities to develop into viable, successful businesses. This work shall include assisting these businesses to compete successfully for the state's expenditures for goods and services.

SECTION 15. Tennessee Code Annotated, Section 12-3-1112, is amended by deleting the word "Tennessee" wherever it appears.

SECTION 16. Tennessee Code Annotated, Section 12-3-1112, is amended by deleting subsection (e) and substituting instead the following:

(e) The small business advocate within the office of the comptroller of the treasury shall be qualified by training or relevant and recent experience in administering programs to encourage and enhance economic opportunities for minority-owned businesses, woman-owned businesses, service-disabled veteran-owned businesses, businesses owned by persons with disabilities, and small businesses. At least annually, the advocate shall attend training or other specialized instruction to enhance understanding of the particular obstacles impeding minority-owned businesses, woman-owned businesses, service-disabled veteran-owned businesses, businesses owned by persons with disabilities, and small businesses from normal entry into the economic mainstream. The training shall be provided by the governor's office of diversity business enterprises in the normal course of business as part of the regular training program for state agencies. When the advocate position is filled by reassigning a current employee, such employee shall receive the requisite training prior to assuming advocate duties.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 1047

House Bill No. 944*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 7, is amended by adding the following new section:

(a) As used in this section:

(1) "Services" means all services to the state for which a contract is entered, including services for highway and road improvements governed by title 54, and design and construction services governed by title 4, chapter 15; and

(2)

(A) "State governmental entity" means any agency, authority, board, commission, department, or office within the executive branch of state government or any autonomous state agency, authority, board, commission, council, department, office, or institution of higher education; and

(B) "State governmental entity" does not mean the department of treasury, the Tennessee financial literacy commission, the Tennessee consolidated retirement system, any exempt entity under § 12-3-102(a)(1), (2), and (4), or any office of a constitutional officer of this state.

(b) The appropriate state governmental entity shall present an electronic report each month to the fiscal review committee for any contract for services by or for a state governmental entity procured through competitive means in excess of five million dollars (\$5,000,000), and any price or cost adjustment or other amendment to the contract in



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excess of that amount. The fiscal review committee may disseminate the report to all members of the general assembly.

(c) This section must be implemented within existing resources of the fiscal review committee.

SECTION 2. Tennessee Code Annotated, Section 12-3-303, is amended by adding the following new subsections immediately preceding subsection (a) and renumbering the existing subsections accordingly:

(a) Before entering into or approving a service contract valued in excess of two hundred fifty thousand dollars (\$250,000), the department of human resources, the contracting agency, and the chief procurement officer must determine that:

(1) No current state employee is able and available to perform the services called for by the contract;

(2) The work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities and there is statutory authority to enter into the contract;

(3) The contract will not establish an employment relationship between the state or the agency and any persons performing under the contract; and

(4) The contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed.

(b) For purposes of subdivision (a)(1):

(1) An employee is available and qualified if the employee is:

(A) Already doing the work in question; or

(B) On layoff status from a class that can do the work in question.

(2) An employee is not available and qualified if the employee is doing other work, is retired, or refuses to do the work in question.

(c) Before procuring services under a contract with an estimated cost that exceeds two hundred fifty thousand dollars (\$250,000), a contracting agency shall:

(1) Demonstrate, by means of a written cost analysis in accordance with subsection (e), that the contracting agency would incur less cost by procuring the contract rather than performing the services with the contracting agency's existing personnel and resources;

(2) Demonstrate, in accordance with subsection (h), that performing the services with the contracting agency's existing personnel and resources is not feasible; and

(3) Produce an economic impact statement in accordance with title 4, chapter 33, part 1.

(d) If a governmental entity authorizes a department, bureau, office, or other subdivision of the governmental entity to procure a contract on behalf of another department, bureau, office, or subdivision of the governmental entity, the department, bureau, office, or subdivision on whose behalf the procurement is conducted shall comply with the requirements of subsection (c). As used in this subsection (d), and except as otherwise provided in subsection (j), "governmental entity" means each department or organization described in title 4, chapter 3.

(e) In the cost analysis required under subdivision (c)(1), a contracting agency shall:

(1) Estimate the contracting agency's cost of performing the services, including:

(A) Salary or wage and benefit costs for contracting agency employees who are directly involved in performing the services, including employees who inspect, supervise, or monitor the performance of the services;

(B) Material costs, including costs for space, energy, transportation, storage, raw and finished materials, equipment, and supplies;

(C) Costs incurred in planning and training for, starting up, implementing, transporting, and delivering the services and costs related to stopping and dismantling a project or operation because the contracting agency intends to procure a limited quantity of services or procure the services within a defined or limited period of time; and

(D) Miscellaneous costs related to performing the services. The contracting agency shall not include in the cost analysis the contracting agency's indirect overhead costs for existing salaries or wages and benefits for administrators or for rent, equipment, utilities, and materials, except to the extent that the costs are attributable solely to performing the services and would not exist unless the contracting agency performs the services; and

(2) Estimate the cost the contracting agency would incur in procuring the services from a contractor, including:

(A) The average or actual salary or wage and benefit costs for contractors and employees who:

(i) Work in the industry or business most closely involved in performing the services that the contracting agency intends to procure; and

(ii) Would be necessary and directly involved in performing the services or who would inspect, supervise, or monitor the performance of the services;

(B) Material costs, including costs for space, energy, transportation, storage, raw and finished materials, equipment, and supplies; and

(C) Miscellaneous costs related to performing the services, including, but not limited to, reasonably foreseeable fluctuations in the

costs for the items identified in this subsection (e) over the expected duration of the procurement.

(f)

(1) Except as otherwise provided in subdivision (f)(2) and subsection (h), after comparing the difference between the costs estimated under subdivision (e)(1) with the costs estimated under subdivision (e)(2), the contracting agency may proceed with the procurement only if the contracting agency would incur more cost in performing the services with the contracting agency's existing personnel and resources than the contracting agency would incur in procuring the services from a contractor. The contracting agency shall not proceed with the procurement if the sole reason that the costs estimated under subdivision (e)(2) are lower than the costs estimated under subdivision (e)(1) is because the costs estimated in subdivision (e)(2)(A) are lower than the costs estimated in subdivision (e)(1)(A).

(2) A contracting agency may proceed with a procurement even if the contracting agency determines that the contracting agency would incur less cost in providing the services with the contracting agency's existing personnel and resources if, at the time the contracting agency intends to conduct a procurement, the contracting agency lacks personnel and resources that are necessary to perform the services within the time in which the services are required. If the contracting agency procures services under the conditions described in this subdivision (f)(2), the contracting agency shall:

(A) Keep a record of the cost analysis and findings that the contracting agency makes for each procurement the contracting agency conducts under this section, along with the basis for the contracting agency's decision to proceed with the procurement; and

(B) Collect and provide copies of the records described in subdivision (f)(2)(A) for each calendar quarter to the contract services subcommittee created under § 3-7-112.

(3) In addition to complying with the provisions of subdivision (f)(2), the contracting agency shall prepare a request to the speaker of the house of representatives and the speaker of the senate for an appropriation and any authority that is necessary for the contracting agency to hire personnel and obtain resources necessary to perform the services that the contracting agency procured under the conditions described in subdivision (f)(2). The request must include a copy of the records that the contracting agency provided to the fiscal review subcommittee under subdivision (f)(2)(B).

(g) A cost analysis, record, documentation, or determination made under this section is a public record.

(h) Notwithstanding subdivision (f)(1), a contracting agency may proceed with a procurement if the contracting agency reasonably determines, and documents in writing, that using the contracting agency's own personnel or resources to perform the services that the contracting agency intends to procure is not feasible. The contracting agency may make the determination described in this subsection (h) without conducting a cost analysis under subsection (e) if the contracting agency determines that:

(1) The contracting agency lacks the specialized capabilities, experience, or technical or other expertise necessary to perform the services. In making the finding, the contracting agency shall compare the contracting agency's capability, experience, or expertise in the field most closely involved in performing the services with a potential contractor's capability, experience, or expertise in the same or a similar field; or

(2) Special circumstances require the contracting agency to procure the services by contract. Special circumstances may include, but are not limited to, circumstances in which:

(A) The terms under which the contracting agency receives a grant or other funds for use in procuring services require the contracting agency to obtain services through an independent contractor;

(B) Other state or federal law requires the contracting agency to procure services through an independent contractor;

(C) The procurement is for services that are incidental to a contract for purchasing or leasing real or personal property, including service and maintenance agreements for equipment that is leased or rented;

(D) The contracting agency cannot accomplish policy, administrative, or legal goals, including, but not limited to, avoiding conflicts of interest or ensuring independent or unbiased findings in cases when using the contracting agency's existing personnel or persons the contracting agency could hire through a regular or ordinary process would not be suitable;

(E) The procurement is for services to which the provisions of § 12-3-505 apply;

(F) The procurement is for services, the need for which is so urgent, temporary, or occasional that attempting to perform the services with the contracting agency's own personnel or resources would cause a delay that would frustrate the purpose for obtaining the services; or

(G) The services that the contracting agency intends to procure will be completed within six (6) months after the date on which the contract for the services is executed.

(i)

(1) Notwithstanding § 12-3-102(a)(3), subsections (a)-(h) apply to institutions of higher education.

(2) In addition to entities exempt under § 12-3-102 other than institutions of higher education, subsections (a)-(h) do not apply to the department of treasury, the Tennessee financial literacy commission, the Tennessee consolidated retirement system, or any office of a constitutional officer of this state.

SECTION 3. Tennessee Code Annotated, Section 12-4-112(a), is amended by adding the following language after the period:

"Governmental entity" also means "agency," as that term is defined in § 4-33-103, and an institution of higher education. "Governmental entity" does not mean the department of treasury, the Tennessee financial literacy commission, the Tennessee consolidated retirement system, any exempt entity under § 12-3-102(a)(1), (2), and (4), or any office of a constitutional officer of this state.

SECTION 4. Tennessee Code Annotated, Section 12-4-112, is amended by adding the following new subsection (d):

(1) If the primary purpose of a proposed contract is to provide a core governmental function by a governmental entity, such proposed contract must also include information sufficient to rebut the presumption that such core governmental function should be performed by a nongovernmental entity employee. Such presumption must not be construed to prohibit a contract for specialized technical expertise not available within such governmental entity; provided, that such entity shall retain responsibility for such core governmental function.

(2) If any part of the contract is based upon evidence that the governmental entity is not sufficiently staffed to provide the core governmental function required by the contract, the governmental entity shall also include within such contract a plan for remediation of the understaffing to allow such services to be provided directly by the governmental entity in the future.

(3) Each solicitation for the procurement of commodities or services must include the following provision: "Respondents to this solicitation or persons acting on

their behalf shall not contact, between the release of the solicitation and the end of the notice of intent to award, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. A violation of this provision may be grounds for rejecting a response."

(4) As used in this subsection (d), "core governmental function" means a function for which the primary purpose is:

(A) An inspection for adherence to health and safety standards because public health or safety may be jeopardized if the inspection is not done or is not done in a timely or proper manner;

(B) The establishment of statutory, regulatory, or contractual standards to which a regulated person, entity, or state contractor must be held;

(C) The enforcement of statutory, regulatory, or contractual requirements governing public health or safety; or

(D) Criminal or civil law enforcement.

SECTION 5. Tennessee Code Annotated, Section 12-3-309(a), is amended by adding the following language as subdivision (a)(3):

(3) A state governmental entity shall not contract with a private party to perform those functions that current state governmental entity employees perform.

Notwithstanding § 12-3-102(a)(3), this subdivision (a)(3) applies to institutions of higher education. In addition to entities exempt under § 12-3-102 other than institutions of higher education, this subdivision (a)(3) does not apply to the department of treasury, the Tennessee financial literacy commission, the Tennessee consolidated retirement system, or any office of a constitutional officer of this state.

SECTION 6. Tennessee Code Annotated, Section 12-3-601(c), is amended by deleting subdivision (1).

SECTION 7. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by adding the following new section:

(a) As used in this section, "state park" means a "park," as that term is defined in § 11-3-101.

(b) Notwithstanding any law to the contrary, the state building commission and the office of the state architect are solely responsible for selecting and contracting with design professionals engaged in the design of new buildings or facilities, or the renovation and improvements to existing buildings or facilities, at state parks.

Professional design services performed by architects, engineers, landscape architects, and interior designers must not be indirectly outsourced to any private company or individual for state park projects.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to contracts entered into, renewed, or amended on or after such date.

House State Government Subcommittee Am. #1

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 910

House Bill No. 852*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-5-301, is amended by adding the following language as a new subsection:

() After a party has brought forward sufficient evidence to establish a prima facie case to contest the denial, suspension, or revocation of any permit, certificate, registration, or license, then pursuant to the contested case provisions of this part, the agency shall bear the burden of proving, by a preponderance of the evidence, that the agency's action was proper.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it, and shall apply to all contested case hearings initiated on or after such date.



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Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 703

House Bill No. 684*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-3-815, is amended by deleting the last two sentences and substituting instead the following:

A wholesaler may deliver wine to a retail food store wine license location any time at which the wholesaler and the retail food store wine licensee's manager mutually agree in accordance with the ordinary and customary practices of the two industries, regardless of whether the retail food store wine licensee is open to the public, and may deliver wine to a location upon the licensed premises as directed by the retail food store wine licensee.

SECTION 2. Tennessee Code Annotated, Section 57-3-815, is further amended by designating the existing language as subsection (a) and inserting the following as a new subsection:

(b) Notwithstanding subsection (a), a wholesaler, including the wholesaler's agents, servants, or employees, may provide merchandising assistance to a retail food store wine licensee pursuant to this subsection (b). Wholesalers may build and stock wholesaler displays of wine on the premises of a retail food store wine licensee. Wholesaler displays must not be part of the retail food store's regular shelving. Wholesalers may replenish wholesaler displays for a maximum period of one (1) month after the initial display has been installed. Wholesalers shall not price the wholesaler displays and shall not provide any other services or things of value to the retail food store wine licensee.



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SECTION 3. Tennessee Code Annotated, Section 57-3-812(d), is amended by deleting the period at the end of the sentence and substituting instead the following:

; provided, that an order does not include a pre-order made by a pending applicant.

SECTION 4. Tennessee Code Annotated, Title 57, Chapter 5, Part 1, is amended by adding the following as a new section:

Any wholesale distributor of beer that has a valid wholesale license pursuant to this chapter shall not be required to obtain a separate license for the distribution of high alcohol content beer from the commission.

SECTION 5. Tennessee Code Annotated, Section 57-3-203(e)(1), is amended by adding the following new sentences:

Nothing in this subdivision (e)(1) requires an employee of a wholesaler to obtain a permit unless that employee has direct involvement with the delivery or sale of alcoholic beverages. Employees involved only in warehousing, administrative, or clerical services for a wholesaler are not required to obtain a permit under this subdivision (e)(1).

SECTION 6. This act shall become effective upon becoming a law, the public welfare requiring it.

House State Government Subcommittee Am. #1

Amendment No. _____

Signature of Sponsor

AMEND Senate Bill No. 556*

House Bill No. 1294

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting subsection (c) of Section 2 and substituting instead the following:

(c) The members of the commission are entitled to reimbursement for travel and per diem expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration.



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House State Government Subcommittee Am. #1

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 702*

House Bill No. 1288

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-3-217, is amended by adding the following language as a new subsection (h):

(1) Each common carrier that contracts with a direct shipper under this section for delivery of wine into this state shall prepare and file monthly with the department of revenue a report of known wine shipments containing the name of the common carrier making the report, the period of time covered by the report, the name and business address of the consignor, the name and address of each consignee, the weight of the package delivered to each consignee, a unique tracking number, and the date of delivery. Reports received by the department of revenue must be made available to the public pursuant to the open records law, compiled in title 10, chapter 7.

(2) Upon the request of the commissioner of revenue, any records supporting the report must be made available to the department of revenue within a reasonable time after the commissioner makes a written request for such records. Any records containing information relating to such reports must be retained and preserved for a period of two (2) years, unless destruction of the records prior to the end of such retention period is authorized in writing by the department of revenue. Such records must be open and available for inspection by the department of revenue upon written request. Reports must also be made available to any law enforcement agency or



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regulatory body of any local government in this state in which the common carrier making the report resides or does business.

(3) Any common carrier that willfully fails to make reports in accordance with this section or that violates any rules of the department of revenue for the administration and enforcement of this section is subject to a notification of violation. If a common carrier continually fails to make reports, the common carrier may be fined in an amount not to exceed five hundred dollars (\$500) for each delivery not reported to the department of revenue. Unpaid fines assessed under this subdivision (h)(3) must be collected in accordance with title 67, chapter 1.

(4) This subsection (h) does not apply to common carriers regulated under 49 U.S.C. §§ 10101 et seq., or to rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service, as defined in 49 CFR § 1090.1, or highway TOFC/COFC service provided by a rail carrier, either itself or jointly with a motor carrier, as part of continuous intermodal freight transportation, including, without limitation, any other TOFC/COFC transportation as defined under federal law.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.